

OGLETREE, DEAKINS, NASH,
SMOAK & STEWART, P.C.
521 5th Avenue, Suite 1700
New York, New York 10175
(212) 292-4314
Allyson M. Smith (AS-4750)
Peter O. Hughes (admitted *pro hac vice*)
Attorneys for Defendant
Novartis Consumer Health, Inc.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SUE EARL,

Plaintiff,

v.

NOVARTIS CONSUMER HEALTH,
INC.

Defendant.

:
: Hon. Richard M. Berman, U.S.D.J.
: Civil No.: 07 CIV 9595 (RMB)
:

:
: **SUPPLEMENTAL DECLARATION**
: **OF ALLYSON M. SMITH, ESQ. IN**
: **SUPPORT OF MOTION FOR**
: **SUMMARY JUDGMENT**
:

: **Document Electronically Filed**
:

Allyson M. Smith, being duly sworn, declares and says:

1. I am an attorney licensed to practice before this Court and an associate with the law firm of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., 521 Fifth Avenue, Suite 1700, New York, New York, 10017, attorneys for defendant Novartis Consumer Health, Inc. ("Consumer Health"), in the within matter. In my capacity as such and through personal involvement in the following matters, I have gained first-hand knowledge of them, except for those matters stated on information and belief, and as for them, I am so informed and believe them to be true. If properly called as a witness, I could and would so testify.

2. Attached and incorporated as Exhibit Z is a true and accurate copy of *Cardinale, v. Southern Homes of Polk County*, -- F. Supp.2d --, 2008 WL 788460, (M.D. Fla. March 19, 2008).

3. Attached and incorporated as Exhibit AA is a true and accurate copy of *Equal Employment Opportunity Commission v. Con-Way, Inc.*, -- F. Supp.2d --, 2007 WL 2510367, (D. Or. September 4, 2007).

4. Attached and incorporated as Exhibit BB is a true and accurate copy of *Rodriguez v. International Brotherhood. Of Teamsters*, -- F. Supp.2d --, 1999 WL 816182, (S.D.N.Y. 1999).

I declare under penalty of perjury that the foregoing is true and correct.

Dated: July 30, 2008

s/ Allyson M. Smith
Allyson M. Smith (AS-4750)